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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)				
136 S WISCONSIN ST				
PORT WASHINGTON, WI 53074				
EXAMINER				
TIMBLIN, ROBERT M				
ART UNIT		PAPER NUMBER		
2167				
NOTIFICATION DATE		DELIVERY MODE		
04/10/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/633,290	Applicant(s) GUPTA ET AL.
Examiner ROBERT TIMBLIN	Art Unit 2167

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/John R. Cottingham/
Supervisory Patent Examiner, Art Unit 2167

Continuation of 11, does NOT place the application in condition for allowance because:

With regard to the traversal of the Examiner's objection concerning an objection to lack of antecedent basis for the computer readable storage medium, the Examiner submits that the objection is sustained. In the argument to the objection, Applicant directs the Examiner to paragraph 0041. However, this paragraph has no definition at all of the computer readable storage medium recited in claim 33. Paragraph 0041 does state: "The present invention has been described in terms of the preferred embodiment. While the preferred embodiment uses computers that are communicating through some form of a network, it is understood that other embodiments of the invention may involve the use of different technologies," however, this paragraph remains to lack definition for the computer readable storage medium of claim 33. Therefore, with the computer readable medium lacking sufficient definition and support from the disclosure, the objection to claim 33 is maintained.

The response to arguments in the final Office Action of 1/24/2008 have been incorporated herein. The following are further response to arguments in the reply filed 3/24/2008.

Applicant argues on page 6 of the reply that an ATP request is not an order for production. The Examiner disagrees for at least the reasons given in the Office Action of 1/24/2008. Further Kennedy defines an ATP request as a request that includes request line-items each corresponding to a desired product (Kennedy, col. 2 lines 31-33). In other words, a client in Kennedy's system would submit an ATP request to request one or more line items. The Examiner submits that in the transformation (see figures 2-5) of an ATP request (30, figure 2) to a quotation (36, figure 2) to an acceptance (64, figure 5), that the ATP becomes an order scheduled for production upon acceptance. Kennedy gives examples of the attributes that would be contained in an acceptance (col. 27, line 15, of an ATP request). For example, an attribute would include the date the line item was shipped (Kennedy, col. 27 line 59). The Examiner submits that an order would have to be for production if it was shipped. Further, as Kennedy's system is directed towards order fulfillment and supply chain management, Kennedy is directed towards the processing of orders for fulfillment (i.e. gaining a request from a customer, processing the request as an order for production and completing the order for the customer).

The Applicant disagrees that Kennedy teaches comparing the promised shipping date and the requested shipping date for each order scheduled for production (page 7 of the reply). The Examiner submits that in addition to the cited col. 18 line 24-31, that also in col. 18 line 54-60 (see the final Office Action, page 14, 1/24/08) this limitation is taught. As this argument has not been addressed in the reply, the argument is moot. The Examiner submits that a failure notification if the shipment was unable to meet delivery requirements (Kennedy, col. 18, line 57-58) teaches the failure of the delivery of an item at a requested date to meet the promised date (i.e. in a comparison of the two dates).

Applicant argues (page 8 of the reply) that Kennedy does not mention anywhere a shipment quality metric or a proactive alert related to orders scheduled for production. The Examiner disagrees for the rationale given in the response to arguments section (pages 14-15 of the final Office Action, 1/24/2008). Further, and again, the Examiner submits that Kennedy teaches generating proactive alerts by at least proactively identifying shipping notifications (col. 33 line 35-36). In another example, a proactive alert in Kennedy could be an annotation in the case of invalid component quotation (col. 18 line 55-60). The notifications and annotations given here would give time to rectify a possible problem in the process and thus are sufficiently "proactive." Moreover, a "shipment quality metric" is described in Kennedy by monitoring shipment confirmations when an ATP request has been fully shipped (col. 33 line 50-54). In other words, an ATP request being fully shipped indicates a quality of shipment as a "fully shipped" status describes a positive quality in the shipment (i.e. that the order has been fulfilled).

Applicant argues that Kennedy does not teach a seller that makes a query in real time to a database for production data for each order scheduled for production (page 9 of the reply). The Examiner submits that as a quotation from an ATP request is an order for production, and col. 20, line 51 describes querying these quotation, that this limitation is met. Further, as a client or an associated user may query the quotation (e.g. col. 32 line 58-60) and the client or associated user may include the seller (e.g. sales and customer service, col. 4 lines 5-8) that this limitation is taught.

Applicant argues that Kennedy does not teach a determined period of time nor a sum of orders. The Examiner disagrees as col. 17, line 30-44 was cited to teach this limitation. For example, line 34-45 teaches a predetermined period of time (e.g. May 9) and a sum of all orders (e.g. "40 wheels, 10 of each axle).

Applicant argues on page 10, second paragraph of the reply that Kennedy does not disclose a computer programmed to determine a shipment quality metric for shipped orders. The Examiner submits that Kennedy's system can be implemented on a computer system (col. 5 line 48-65). The generation of a shipment quality metric has been addressed in the final Office Action as well as in the foregoing.